



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE INSPECTOR GENERAL

February 27, 2004

INSPECTION REPORT

To: William Leidinger
Assistant Secretary
Office of Management

From: Cathy H. Lewis
Assistant Inspector General
Evaluation, Inspection, and Management Services

Subject: Guard Quality Assurance Issues at the Mary E. Switzer Building
(ED/OIG I13D0014)

Executive Summary

This memorandum provides the results for our inspection of contract guard quality assurance at the Mary E. Switzer (Switzer) building. Our inspection objectives were to determine (1) the effectiveness of the guard quality assurance program at the Switzer building, and (2) the Department of Education's (Department) role in the quality assurance process.

Employee concerns about guard performance in the Switzer building surfaced in a Department-wide safety and security survey conducted in October 2002. Issues raised by the survey specific to the Switzer building included lack of uniformity in searching baggage and checking ID badges, lack of attention to detail, poor professionalism and training.

The Department relies on the Federal Protective Service (FPS) to provide contract guard service for Switzer and its other buildings. The primary responsibility for monitoring the contractor's work rests with the FPS. The FPS, however, devotes limited resources to this task and relies heavily upon the Department's Agency Technical Representative (ATR) for assistance in monitoring the adequacy of performance by the contract employees and advising the FPS of unsatisfactory performance.

As a result of our inspection, we determined that the quality assurance program is not being effectively monitored by the FPS. The Department is not playing the active role in monitoring performance envisioned by the guard contract and the FPS, in large part because the ATR is unclear about the role that she is intended

to play and with whom, in the FPS and in the Department, she should be sharing information. Within the Office of Management (OM) there appears to be uncertainty about which component has responsibility for the ATR function. The ATR's responsibilities need to be clarified, and OM needs to clarify for itself and the FPS what entity within OM has responsibility for overseeing contract guard performance, who will supervise and train the ATRs and how this position will be staffed. In addition, because of the limited role the Department is playing, it does not have access to performance information that might justify appropriate contract deductions.

Department offices will move out of the Switzer building next May. However, it is our understanding that similar guard contracts cover other Department facilities and will cover the new location on 12th street. Therefore, our recommendations cover not only improvements needed with respect to the current situation in the Switzer building, but also planning for the new facility and a recommendation that the Department assess the situation at other current locations to determine if the problems identified at the Switzer building also exist at those other facilities.

On January 30th, the Assistant Secretary for Management responded to the draft version of this report. Our comments to the Assistant Secretary's memorandum can be found starting on page 11 of this report.

Recommendations:

To address these issues, we recommend that the Assistant Secretary for Management:

1. Supplement the current guard contract with a memorandum of understanding (MOU) with the FPS. This document should:
 - Clarify the role of the ATR and the role of the FPS staff with respect to the monitoring of the quality assurance standards for guard services;
 - Specify the staff resources that the FPS will commit to the monitoring process; and
 - Identify how information supporting performance deductions will be provided to the Department.

2. Assess the situation at all other Department locations to ensure that an active ATR is assigned to cover each location, that this individual fully understands his or her role in the quality assurance process, and assure that effective communication is occurring on a regular basis between the FPS and the Department with respect to guard performance, or lack thereof, at each location.
3. Review the guard contract for the 12th street location and incorporate into the contract, or include by attached MOU, language consistent with recommendation #1.
4. Develop and maintain a staff of trained ATRs sufficient to ensure that these staff can perform the duties defined in the contract and MOU and at each Department facility.
5. Clarify where responsibility resides within OM for providing ATRs, specifically,
 - Who has responsibility for supervising the performance of these individuals, including the effectiveness of their communication with the FPS and
 - To whom information about possible contract deductions for non-performance will be conveyed within the Department and how this information will be evaluated and processed.

Background

The Department spends over \$600,000 annually to secure guard services for the Switzer building and over \$6 million annually to secure these services for all Department facilities. The FPS provides contract guards to ensure the physical safety and security of Government employees and building visitors. Most guards are authorized to carry firearms. Guards are deployed at roving and fixed posts, where they often man security-screening devices such as magnetometers and x-ray machines. In accordance with the 1995 Department of Justice standards, the Switzer building is a Level IV facility, the second highest (most secure) in the Federal Government.

As a result of the security enhancement efforts following the April 19, 1995 bombing of the Murray Federal Building in Oklahoma, the contract guard force more than doubled to approximately 7,000 security guards. With FY 2002 obligations of \$144 million, contract guard services represent the largest expenditure in the FPS budget.

Until March 2003, the General Services Administration (GSA) maintained the security guard contracts for all federal agencies located in GSA owned or leased buildings. Through the contract process, GSA provided security in federal buildings for agencies not authorized delegated authority. Effective March 1, 2003, the Department of Homeland Security (DHS) assumed responsibility for the security of federal buildings. The FPS was transferred from GSA to DHS. Routinely, guard services are contracted to one of the many local security firms specializing in public building security. On May 30, 2003 the FPS discontinued using the contractor, Area Wide Security, at the Switzer building. The current contractor is Knight Protective, Inc. The new contractor began providing guard services for the Switzer building on June 1, 2003. According to the Contracting Officer (CO), the contract change was prompted in part by a need to consolidate guard contracts and in part because of poor performance. The CO stated that Area Wide Security had significant performance issues that added to their decision to re-compete the contract.¹

The Switzer building guard contract pays for three broad service areas: the guards (staffing), the FPS administration of the contract, and quality assurance. The CO for the contract is an FPS employee; the current Contracting Officer Representative (COR) for the contract is the GSA Building Manager;² and the ATR is a Department employee.

Inspection Results

Objective 1: Determine the effectiveness of the guard quality assurance program at the Switzer building.

The Switzer building does not have an effective guard quality assurance program. While the FPS has primary responsibility for monitoring guard services, it does not have sufficient quality assurance staff to ensure an effective program.

¹ All FPS guard contracts are written with a right of first refusal clause. When the FPS changes contractors (to improve service, save money, for convenience to the government etc.), the guards employed by the former contractor have the right to remain in their current position and must be employed by the new contractor. Executive Order 12933, dated July 21, 1997 (Non-displacement of Qualified Workers) ensures that a new contractor must offer employment to security guards from the former contract for at least one year from the time the new contract becomes effective. This Executive Order was rescinded in 2003; however, 29 CFR Sec.4.173 still requires the new contractor to offer its predecessor's employees the right of first refusal. This requirement makes it difficult to remove poor performing contract guards at the outset of a new contract.

² The contract references a Contracting Officer Technical Representative (COTR) as well as a COR. Typically, these positions are interchangeable and are now referred to as just the COR. In any event, according to the FPS, there is no COTR assigned to this contract.

According to the guard contract, the FPS quality assurance specialists, who are supervised by the COR, “are responsible for the day-to-day inspection and monitoring of the contractor’s work.” Specifically, these specialists are responsible for:

- Inspecting work to ensure compliance with the contract statement of work requirements;
- Documenting through written inspection reports the results of all inspections conducted;
- Ensuring defects or omissions are corrected;
- Identifying to the CO and COR areas of non-performance by the contractor that may result in deductions from contract payment or other contractual remedies being taken, and
- Conferring with representatives of the contractor regarding problems encountered in the performance of the work, and generally assisting the COR in carrying out the duties.³

However, according to the FPS CO, the FPS has only nine specialists to perform these tasks, and these nine are responsible for monitoring 5000 guards and over 100 buildings in the National Capitol Area. In our interviews with the CO, she stated that the FPS is chronically understaffed to handle the magnitude of inspections to the depth needed in order to be effective, and while the FPS is attempting to acquire more quality assurance specialists, the success of this effort is uncertain at this time. The Chief Quality Assurance Inspector at the FPS also acknowledged that the biggest obstacle to achieving better guard service is the lack of quality assurance inspectors in the FPS.

Under GSA guidance that continues to be followed by the FPS, other FPS employees also can be designated to perform inspections of the contract guards, including physical security specialists, law enforcement and security officers, FPS law enforcement officers and protection specialists. However, under the contract, the quality assurance specialist is responsible for the day-to-day inspection and monitoring of the contractor’s work.⁴

³ In addition to the contract requirements for quality assurance, PBS P 5930.17C, Chapter 9, paragraph 5(a) states, “To ensure that the Government receives the caliber of services for which it has contracted, the FPS personnel will be required to frequently conduct inspections of contract guards as part of their assigned duties.”

⁴ *Ibid.*

From the FPS' vantage point, it cannot monitor the contract guard program effectively without active assistance from the ATR. Under the contract, the ATR is responsible for:

1. Determining the adequacy of performance by the contract employees in accordance with the terms and conditions of this contract;
2. Performing surveillance of the contract employees while they are on duty;
3. Conducting "intrusion tests" in which undercover FPS staff will attempt to bring unauthorized weapons or other prohibited materials into the facility, using the prescribed security methods or equipment, without being detected by the guards on post;
4. Acting as the Government's representative in charge of work at the site;
5. Ensuring compliance with contract requirements insofar as the guards' duties and behavior are concerned; and
6. Advising the contractor, CO and COR of nonperformance or unsatisfactory performance.⁵

The Switzer building's ATR's understanding of her responsibilities, however, differs from that outlined in the contract. According to the ATR, her role is to provide operational involvement on behalf of the Department and to create special guard post orders, escort visitors and secure an additional guard for a post when required due to ceremonies, special construction work, *etc.* Unless she observes a "major, major security violation," she does not report it. When she does report a security violation, it is to the Switzer GSA building manager, the current COR on the guard contract, although the contract states that the ATR will also provide such information to the CO, and thus to the FPS. According to the ATR she was never instructed to communicate with the FPS. According to the FPS Chief Quality Assurance Inspector, with the exception of one instance, he said Department officials have never briefed him on their contract guard concerns. Furthermore, according to him, because he does not have a rapport with the Department, when violations occur, he does not relay the issues to Department officials. According to the COR, the ATR does not talk with him about contract guard concerns.

The FPS does not have adequate resources to effectively monitor guard performance at the Switzer building. The guard contract is structured to place heavy reliance on the Department's ATR playing an active role in monitoring performance; however, this is not occurring. Adequate resources to support the monitoring process need to be provided by the FPS and the responsibilities of the Department's ATR, including to whom she is expected to report performance problems, need to be clearly articulated by the Department.

⁵ FPS contract with Knight Protective Solicitation No. WPSB-03-0010, Part I -- Statement of Work, P.4, paragraph (1).

In light of these findings, we conclude that there does not appear to be an effective guard quality assurance program currently operating in the Switzer building.

Objective 2: Determine the Department's role in the quality assurance process.

The Department has a significant role to play in the quality assurance process; however, it is not effectively fulfilling its responsibilities. Its ability to perform has been limited by misperceptions by the ATR of her responsibilities, confusion about lines of responsibility within OM and lack of communication between the FPS and the Department.

The Department's responsibilities with respect to the quality assurance process are described in the FPS contract and the Department's Physical Security Program Directive OM: 4-112, as discussed above. Under the contract, the ATR is to work actively with the COR and CO. No information regarding guard performance is apparently being provided to the CO or the COR by the ATR.

As described above, the ATR perceives her role with respect to providing input on guard performance as far more limited than what is envisioned by the FPS or the contract. In addition to her misperceptions, there appears to be additional confusion about lines of responsibility within OM. The Department's security directive provides that the ATR will work with the Department's Security Office in implementing physical security programs at Department Headquarters. According to the Executive Office for OM, Security Services should accomplish most of the monitoring of Department guard contracts and that Security Services staff was the ATR for the guard contract. Security Services stated that when they were established in 2002, they were not designed to be the ATRs for all Department buildings and that they are not properly staffed to fulfill those duties. Security Services personnel told us that when they were separated from the Quality Work Group (QWG), the full-time equivalents (FTE) to perform the ATR duties remained in QWG. The current ATR is in fact a QWG employee and according to her, no one has directed her to report performance problems to the Security staff.⁶ The Switzer building ATR said her duties will expire in a few months and her position will not be renewed.

Under the terms of the contract and the Department's own security directive, the ATR has an important role to play in the monitoring process. We raised this issue in interviews with the Acting Director of Security Services, the head of QWG, and the OM Executive Officer. The Acting Director recognized the importance of the ATR; however, from the interviews with him, Security Services

⁶ We were unable to locate any internal Department guidance for ATRs and, with the exception of the Switzer building, we found no other ATRs for Department buildings in the National Capital Region. The two former ATRs we spoke with said their duties expired several years ago.

staff, the Executive Officer and the head of QWG it is unclear where this position will be located within the OM organizational structure and how OM plans to meet the need for ATRs⁷.

The lack of information flowing between the Department and the FPS about identified performance problems raises a potential fiscal as well as security problem. The FPS has the authority to deduct funds from the contractor as a penalty for improper procedures or service, including poor performance. The Quality Assurance specialists have the authority to carry out deduction notices. We asked the FPS how many Switzer building deduction notices were processed over the last 36 months (from June 2003). The FPS was only able to identify one deduction notice over the past three years. This notice was not related to guard performance.

If a deduction is appropriate, a Reimbursable Work Authorization is created to transfer funds. These authorizations are also the vehicle for paying additional costs, e.g., additional guard coverage for special events. The Security Office is responsible for oversight of the security guard Reimbursable Work Authorization payments; however, inasmuch as there is no regular communication between the ATR and Security Services with respect to guard performance or between the FPS and the Department, Security Services does not have sufficient information to know if and when a deduction for non-performance would be appropriate. According to the FPS CO, if a letter of deduction is created, because she has no link with the Department, the letter is not shared with the Department. She said the only way the Department would know it was due return funds from the FPS due to deductions would be at the end of the contract year when a Reimbursable Work Authorization is sent to the Department returning the funds.⁸

The Department is not effectively carrying out its responsibilities to monitor contract guard performance in the Switzer building. The ATR's responsibilities need to be clarified and OM needs to clarify for itself and the FPS what entity within OM has responsibility for overseeing contract guard performance, who will supervise and train the ATRs and how this position will be staffed. The Department also needs to ensure that non-performance information is flowing to the Security Service (or whatever entity is given the oversight responsibility) and that the services of budget staff are provided when needed to appropriately evaluate and process Reimbursable Work Authorizations.

⁷ The head of QWG stated that he believed GSA had discontinued the position of ATR. According to the FPS, this is not correct. The position is clearly identified in the current guard contract for the Switzer building.

⁸ According to the FPS, in most agencies a budget specialist works with the ATR in evaluating Reimbursable Work Authorizations. In the Department, such authorizations are reviewed by the OM Executive Officer, but only to ensure that funds are available for expenditure. Staff in the Department's Security Service agreed with the FPS' assessment that it would be useful to have a budget specialist available.

Conclusion

Since the Switzer building does not operate under any special provisions/operating procedures in terms of guard services, we can conclude that the concerns mentioned in this report are applicable to most Department facilities where contract guard services are used. The FPS employs insufficient quality assurance staff to ensure an effective guard quality service program for the Department. The FPS is aware of these resource limitations and has structured the guard contract to rely heavily on the Department's ATR to provide ongoing feedback to the FPS on guard performance issues. This expectation is not clearly reflected in the Department's own Security Directive, and the ATR for the Switzer building maintains that she is unaware of having such a responsibility. As a result, the Department is neither giving nor receiving information about guard performance in the Switzer building or other facilities on a recurring basis.

There appears to be no reliable mechanism by which these issues will be raised or resolved by the FPS. Because of the Department's lack of information, not only is there the opportunity for security to be compromised for Department employees who work in the Department facilities, but also the Department may not be claiming deductions appropriate under the contract for lack of guard performance. The confusion that exists between the FPS, OM Security Services and the ATR regarding their respective responsibilities for guard performance needs to be resolved and the respective roles of each entity clearly and consistently articulated and implemented for all Department facilities.

Recommendations:

To address these issues, we recommend that the Assistant Secretary for Management:

1. Supplement the current guard contract with a memorandum of understanding (MOU) with the FPS. This document should:
 - Clarify the role of the ATR and the role of the FPS staff with respect to the monitoring of the quality assurance standards for guard services;
 - Specify the staff resources that the FPS will commit to the monitoring process; and
 - Identify how information supporting performance deductions will be provided to the Department.

- 2 Assess the situation at all other Department locations to ensure that an active ATR is assigned to cover each location, that this individual fully understands his or her role in the quality assurance process, and assure that effective communication is occurring on a regular basis between the FPS and the Department with respect to guard performance, or lack thereof, at each location.
- 3 Review the guard contract for the 12th street location and incorporate into the contract, or include by attached MOU, language consistent with recommendation #1.
- 4 Develop and maintain a staff of trained ATRs sufficient to ensure that these staff can perform the duties defined in the contract and MOU and at each Department facility.
- 5 Clarify where responsibility resides within OM for providing ATRs, specifically,
 - Who has responsibility for supervising the performance of these individuals, including the effectiveness of their communication with the FPS and
 - To whom information about possible contract deductions for non-performance will be conveyed within the Department and how this information will be evaluated and processed.

Objectives, Scope and Methodology

Objectives:

1. Determine the effectiveness of the guard quality assurance program at the Switzer building.
2. Determine the Department's role in the quality assurance process.

Scope and Methodology:

This inspection determined the effectiveness of the FPS' guard quality assurance program for the Department as it operates in the Switzer building, the vulnerabilities that exist in the security guard service in that building and the Department's role in the quality assurance process.

As part of the inspection process, we conducted interviews with essential personnel, gathered pertinent documents, reviewed applicable policies, regulations and procedures and visited throughout the Switzer building. We also referred to the recent Department-wide security survey to better understand how employees view the security guards at the Switzer building. In addition, we

contacted the Offices of Inspector General (OIG) at GSA and DHS to ascertain their involvement in the contract guard issue. Our document search extended back 24-36 months from this report date.

We limited our inspection to the Switzer building guard contract, but our inspection process and the concerns mentioned in this report are applicable to most Department facilities where contract guard services are used. In order for this report to reach the proper FPS officials, we will provide a copy of this report and recommendations to the DHS, OIG officials.

This inspection took place from April to June 2003.

This inspection was performed in accordance with the President's Council on Integrity and Efficiency (PCIE) Quality Standards for Inspections dated March 1993.

Department Response

We provided OM with a draft report. We summarized OM's comments after each recommendation and included them in their entirety as an attachment.

Recommendation 1: Supplement the current guard contract with a memorandum of understanding (MOU) with the FPS. This document should:

- Clarify the role of the ATR and the role of the FPS staff with respect to the monitoring of the quality assurance standards for guard services;
- Specify the staff resources that the FPS will commit to the monitoring process; and
- Identify how information supporting performance deductions will be provided to the Department.

OM stated they would contact Mr. Wendell Shingler, FPS Commissioner, no later than February 28, 2004, to begin the MOU. The Department will formally request delegation of authority for ATR assignments to cover all ATR responsibilities at Department facilities.

We found the Department's comments responsive to our recommendation.

Recommendation 2: Assess the situation at all other Department locations to ensure that an active ATR is assigned to cover each location, that this individual fully understands his or her role in the quality assurance process, and assure that effective communication is occurring on a regular basis between the FPS and the Department with respect to guard performance, or lack thereof, at each location.

OM stated they will assign Department employees as ATRs, ensure they are trained and hold quarterly meetings with ATRs.

We found the Department's comments responsive to our recommendation.

Recommendation 3: Review the guard contract for the 12th street location and incorporate into the contract, or include by attached MOU, language consistent with recommendation #1.

OM stated that all Department facilities having FPS controlled guards will have the MOU language incorporated into their operating procedures.

We found the Department's comments responsive to our recommendation.

Recommendation 4: Develop and maintain a staff of trained ATRs sufficient to ensure that these staff can perform the duties defined in the contract and MOU and at each Department facility.

OM said they would assign and maintain Department employees as ATRs. In addition, all ATRs will be over sighted by OM, Security Services.

We found the Department's comments responsive to our recommendation.

Recommendation 5: Clarify where responsibility resides within OM for providing ATRs, specifically,

- Who has responsibility for supervising the performance of these individuals, including the effectiveness of their communication with the FPS and
- To whom information about possible contract deductions for non-performance will be conveyed within the Department and how this information will be evaluated and processed.

OM responded that qualified Department employees will be assigned as ATRs and that Security Services will maintain oversight of all ATRs. ATRs duties will be assigned as collateral duty. In addition, OM will ask for FPS guard contracting officials to report all contract deductions for nonperformance to Security Services. This information will be retained for future contract guard considerations.

We found the Department's comments responsive to our recommendation. A copy of the Department Response is included with this report.